

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O. O. C. J.**

**SUMMONS FOR JUDGMENT NO.149 OF 2007
IN
SUMMARY SUIT NO.3423 OF 2005**

Smt. Jayaben C. Kesur. ...Plaintiff.
Vs.
M/s. Anu International Anr. ...Defendants.

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Mr. Bharat Vaishnava for the Plaintiff.
None for the Defendants.

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CORAM : DR.D.Y.CHANDRACHUD, J.
4th June 2007.

P.C.:

The suit is under Order 37 of the Code of Civil Procedure, 1908. The Plaintiff lent and advanced a sum of Rs.50,000/- to the Defendants by a cheque dated 22nd April 2003 drawn on Corporation Bank. Towards the repayment of the liability, the Defendants issued a cheque dated 1st February 2004 in the sum of Rs.50,000/- drawn on the Jain Sahakari Bank Ltd. The cheque was, however, dishonoured on presentation. In pursuance of a notice of demand dated 13th February 2004, the Defendants by a letter dated 28th February 2004, admitted that the loan had been received, that a cheque had been issued towards the repayment of the loan, but asserted that there was a request to

present the cheque only with the consent of the Defendants. The Defendants also pleaded financial difficulty and sought an extension of time.

Counsel appearing on behalf of the Plaintiff states that a complaint has been instituted under Section 138 of the Negotiable Instruments Act, 1881 and that in the meantime, an amount of Rs.35,000/- has been paid by the Defendants until date towards the claim of the Plaintiff.

The Defendants have been served with the Writ of Summons and have entered appearance. No reply has been filed to the Summons for Judgment. In the circumstances, in the absence of any defence to the claim in the suit setting out valid grounds for the grant of leave to defend, the Plaintiff will be entitled to a decree. The Plaintiff, in the course of submissions of Counsel, has restricted his claim to a sum of Rs.15,000/-. The suit shall accordingly stand decreed in the sum of Rs.15,000/-. The Plaintiff shall be entitled to interest at the rate of 9% per annum from the date of the suit, until payment or realisation.

The Summons for Judgment is accordingly made

absolute in the aforesaid terms.

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